

**McBride**

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Via: Express Mail No. **EE050525978US**

November 11, 1997

William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street N.W. Room 222  
Washington D.C. 20554

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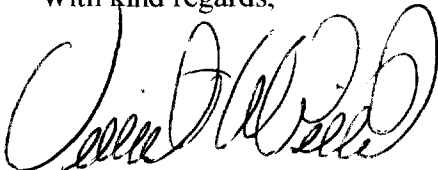
Dear Mr. Caton:

Re: **WT Docket No. 97-82 / FCC Order 97-342**

Pursuant to applicable procedures set fourth in Sections 1.415 and 1.419 of the Commission's Rules, please find an original, (attached to this letter) and ten copies of my comments regarding the above, to be formally filed with the Office of the Secretary, Federal Communication Commission. A courtesy copy was served on Mr. Mark Bollinger of the Wireless Telecommunications Bureau Via: *FIRST CLASS MAIL*.

If you have any questions, or need further information, you may reach me directly at:  
310.452.4003

With kind regards,



VINCENT D. McBRIDE

VDM/kh

Vincent D. McBride

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Before the  
**FEDERAL COMMUNICATION COMMISSION**  
Washington D.C.

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In The Matter of

**WT Docket No. 97-82**

Second Report and Order FCC 97-342  
Released: October 16, 1997  
Amendment of Commissions  
Rules Regarding Installment Payment  
Financing For Personal Communications  
Services (PCS) Licensees

To: William F. Caton  
Acting Secretary

**COMMENTS**

**Introduction**

My name is Vincent D. McBride I am a Letter Carrier for the U.S. Postal Service, and also one of the 87 winning bidders in the FCC Entrepreneur's C block auction, winning a PCS License for the Williston North Dakota market, the smallest market of the 493 markets. To date I have made all of the required payments on time. After evaluating the menu of options presented by the Commission, I feel these options will create a financial obstacle, and are fundamentally wrong for the following reasons.

**Argument**

**Option No.1 Existing Note Obligations.**

Option No.1 contains no solutions for the financially troubled Entrepreneur's C block auction licensees in any way. This is the same option we had on March 31, 1997 but only now it's a year later. Since it took six months for the Commission to offer this option the value of our licenses has only deteriorated, and the indecision has increased the risk of bankruptcy. This option offers no incentives at all, and therefore is worthless.

**Option No.2 Disaggregation.**

a) Since option No.2 is the only option that may offer a choice to small bidders with only one or two markets, the penalty on the down payment should be uniform with the penalty given to someone selecting option No.4. An additional 20 percent penalty for selecting

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option No.2 is not equitable. For option No.2 to be effective the penalty on the down payment should be eliminated.

b) The value of a 15MHz License is not the same as the value of a 30 MHz License. (*See Commission Rules WT Docket No. 96-59 "Adjusting for Lower Values of 10MHz Licenses."*) The point is: when we placed our bids in the C block auction we did so based on the value of a 30MHz license, not based on the value of a 15MHz license. We ask the commission to use the same rationale as Docket No. 96-59 and make an adjustment to the debt and the down payment based on the value of a 15MHz license.

c) In addition to trimming our spectrum holding, option No.2 will also introduce another competitor into the market place. At the start of the PCS auctions our business case was based on the fact that the number of potential competitors in each market would be no more than six PCS licenses in each market, one for each auction block A to F. But after the auctions have ended, the commission altered the rules by introducing disaggregation, and now the C block licenses will be cut in half, adding yet one more competitor to the market place. It looks like we could have as many as twelve PCS competitors in each market, plus two cellular companies, along with an onslaught of wireless spectrum SMR, WCS, LMDS, and GWS licenses. By changing the rules in the middle of the game the commission has inherently wrecked the business case and devalued all C block licenses by as much as 75 percent. This has severely weakened the business model which financial investors depend on. ( *See Wireless Week October 6, 1997 "Wall Street Unaltered by C Block Plan."* )

**Option No.3 Amnesty.**

Option No.3 is asking us to forfeit 100 percent of our down payments posted to date. This is millions of dollars in forfeiture, not including other additional expenses, and three years of time. Option No.3 is punitive in nature and is not amnesty.

**Option No.4 Prepayment.**

a) Option No.4 is nothing more than a bailout for a few large bidders in the Entrepreneur's C block auction. With this option the commission is allowing them off the hook for over **\$7.4 Billion Dollars** with a small penalty of less than 3 percent of the total debt outstanding. These same bidders will enjoy the right to select a few choice markets from their holdings, and then enter the reauction. On the other hand, you have restricted the small bidder to accept option No.2 who will end up paying a 50 percent penalty on the down payment. This is not equitable.

b) If the very small bidder could afford to pay all cash for the licenses, we would not have been in the Entrepreneur's C block auction in the first place, and would have been in the A & B block auctions. Option No.4 unfairly discriminates against the smaller bidder in the Entrepreneur's C Block Auction, and is inequitable. It exclusively represents the views of

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the larger players in the Entrepreneur's C block auction, and has no commercial value for the smaller bidder.

c) Only a few days prior to the start of the auction, the commission adopted the Adarand ruling, and did away with the designated entities bidding credits for very small businesses owned by minorities and women in the Entrepreneur's C Block Auction. By doing so, it eliminated any advantages that a small bidder may have had over larger bidders like U.S. Airwaves who posted up-front deposits of more than **\$81 Million Dollars**. Under the activity rules, the larger your up-front deposit is, the higher your activity level is, therefore giving the smaller bidders a disadvantage. For the commission to now ask the small businesses, minorities, and women to accept option No.4 and pay all cash for it's licenses plus a penalty on its down payment would eliminate the only worthwhile benefit left in the Entrepreneur's C block auctions, the installment payment plan.

d) The Entrepreneur's C block auction total net bids in the amount of more then **\$10.2 Billion Dollars** was inflated by what now appears to be fraudulent bids of over **\$7.4 Billion Dollars** or 74 percent of the total net bids in the Entrepreneur's C Block Auction, placed by the top four bidders alone. In fact, one bidder - **BDPCS** - never made it out of the starting gate, it never had the first 5 percent down payment. (*See RCR cover story May 5, 1997 "Ex-PCS Player BDPCS Blames Loss On US West."*) The other two bidders - **Pocket Communications** - and **-GWI-** are now in bankruptcy, and the top bidder - **Next Wave** - could not even make the first interest payment on it's **\$4.7 Billion Dollars** in bids forcing the FCC to suspend all interest payments. Additionally, the issue of NextWaves violation of the FCC foreign ownership rules is not being addressed. (*See RCR cover story February 24, 1997 "FCC Puts NextWave's Foreign Ownership Near 40%."*) This fraudulent bidding had a substantial effect on the prices and inflated the C block auction by as much as 400 percent. (*See RCR March 25, 1997 "Gaming Professor Says NextWave Bids Skewed C Block Auction."*) The fact of the matter is, for exactly the same amount of spectrum in the D, E & F block auction, licenses sold for 25 percent of comparable C block licenses. (*See Wireless Telecommunications Bureau Facts.*) The brain trust on Wall Street at the FCC Entrepreneur's C block hearings on June 30, 1997 said that a reauction would bring about twenty five cents on the dollar, or roughly the equivalent of a 75 percent discount to the C block bids.

e) The irony is that option No.4 works counterclockwise of the commission goal to promote competition and encourage Designated Entities to participate in the wireless telecommunications industry. Instead, it unfairly discriminates against the smaller players. Option No.4 is worthless to the smaller bidder and is a bold slap in the face by ignoring the mandate of congress under Section 309 ( j ) of the Telecommunications Act. Option No.4 will only place a commercial cloud over the Entrepreneur's C block licenses. If this is the only options the commission is willing to muster, then we would highly recommend to the commission not to change the rules one bit After all, "**the rules are the rules.**"

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The problems of the Entrepreneur's C block auction should not come as a big surprise to the commission, because it was the commissions own decisions, that fertilized the C block pandemonium by:

- Defining a small business (General Rule: 24.709) as having total assets of \$500 million or less
- Adopting the Adarand decision three days before the start of the auction
- Giving NextWave the O.K. to violate the foreign ownership rules
- Giving the A& B Block a two year head start
- Allowing Pocket Communications to file for bankruptcy by subordinating the FCC first lien on it's licenses
- Changing the rules with the suspension of all installment payments
- Giving the comments of large telecommunications companies too much weight and input on the rule-making decisions of the Entrepreneur's C block auction
- Allowing PCS spectrum disaggregation after the fact.

**Consideration**

The C block licenses are deteriorating in value with each new day. If the commission is truly sincere about helping the Entrepreneurs C block auction winners, then now is the time to start looking for some new and creative solutions:

- Give full amnesty of 100 percent return of all down payments, plus all the interest payments
- Equalize the result of fraudulent over- bidding with a 75 percent discount of the total debt due on C block licenses to those who complied with the rules
- Set the interest rate on the outstanding debt uniformly at 5.75 percent based on the day the Entrepreneur's C block auction ended. so all Entrepreneur's C block bidders have the same interest rate.
- subordinate the first lien on all Entrepreneur's C block licenses to a secondary position

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- Eliminate all the restrictions of ownership on the Entrepreneur's C block licenses
- Request a one time tax credit from congress for anyone who makes an investment in a Entrepreneur's C block license
- Immediately implement the Telecommunication Development Fund so that the funds are available now
- Modify option No.2 to include a choice of giving back 10, 15, or 20MHz
- Eliminate all payments for the first 7 years, with no interest on the debt for the first five years
- Eliminate the build-out requirements for the first 7 years.

**Conclusion**

The commission has an absolute responsibility to the Entrepreneur's C block winners who have been misled, down a road of broken promises. The time has come for the commission to face the music, and make good on the fundamental principles of the Entrepreneur's C block auction and all its promises. It would be a crime for the commission to look the other way, when we are looking to the commission for some real help.

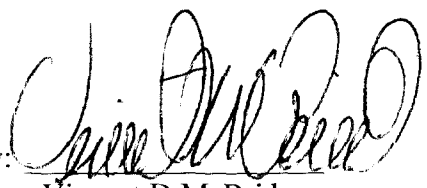
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Dated : November 11, 1997

Respectfully submitted,

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By:   
Vincent D. McBride